



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/801,634	03/16/2004	Masashi Mizutani	4041K-000188	2925
27572	7590	04/17/2008		
HARNESS, DICKEY & PIERCE, P.L.C.				
P.O. BOX 828				
BLOOMFIELD HILLS, MI 48303				
EXAMINER				
CIRIC, LJILJANA V				
ART UNIT		PAPER NUMBER		
3744				
MAIL DATE		DELIVERY MODE		
04/17/2008		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

# Office Action Summary

## Application No.

10/801,634

## Applicant(s)

MIZUTANI, MASASHI

## Examiner

Ljiljana (Lil) V. Ciric

## Art Unit

3744

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 November 2007 and 14 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-12 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-12 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 March 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB08)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Paper No(s)/Mail Date \_\_\_\_\_
- 6) ☐ Other: \_\_\_\_\_
- 7) ☐ Notices of Informal Patent Application
- 8) ☐ Paper No(s)/Mail Date 10242007, 11122007

## **DETAILED ACTION**

### ***Response to Amendment***

1. This Office action is in response to the replies filed on November 14, 2007 and on January 14, 2007.
2. Claims 1 through 12 remain in the application, of which claims 1 through 6 have been amended, either directly or indirectly, whereas claims 7 through 12 are new.

### ***Response to Arguments***

3. Applicant's arguments filed on November 14, 2007 with respect to the previously cited prior art rejections of claims 1 through 6 have been considered but are moot in view of the new grounds of rejection.

Applicant's arguments filed on November 14, 2007 with regard to the previously cited rejection of claim 2 under 35 U.S.C. 112, first paragraph, have been fully considered but they are not persuasive. More particularly, applicant argues that the amendment of claim 2 to recite "the packing member is directly attached to an outer surface of only the small diameter shaft portion" instead of "the packing member is attached to only the small diameter shaft portion" as previously recited overcomes the examiner's previous rejection of claim 2 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The examiner, however, disagrees. The originally filed disclosure fails to provide specific support for the recitation of either of the aforementioned sets of limitations. The only portion of the originally filed disclosure which describes the packing member as being attached to only the small diameter shaft portion is written in a generally unclear and idiomatically informal manner which makes it impossible for the examiner to determine what is encompassed thereby. On page 3, in lines 12-18, applicants state "According to a second aspect of the present invention, the door shaft (41) is provided with a large diameter shaft portion (41a) and a small diameter shaft portion (41b), and the packing member (43, 143, 243) is attached to only the small diameter shaft portion (41b) in

Art Unit: 3744

*the large diameter shaft portion and the small diameter shaft portion. [sic]*". The originally filed disclosure thus fails to specify that the packing member is directly attached to only an outer surface of only the small diameter shaft portion, and also fails to clearly set forth what is meant by "to only the small diameter shaft portion (41b) in the large diameter shaft portion and the small diameter shaft portion".

***Claim Rejections - 35 USC § 112***

4. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

5. Claims 2 and 8 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. In particular, there is no support in the originally filed disclosure either by way of description in the originally filed specification or by way of depiction in the originally filed drawings to provide support for the recitation of the packing member which is disposed between the door shaft and the bearing hole as also being directly attached ONLY to the outer surface of the small diameter shaft portion of the door shaft as recited in claim 2 or as being directly attached only onto the small diameter shaft portion side of the door shaft as recited in claim 8.. The originally filed disclosure shows/describes the small and large diameter shaft portions as being attached to each other, and thus it is inherent that whatever element is attached to either of the small diameter shaft portion or to the large diameter shaft portion is inherently also at least indirectly attached to the other shaft portion. Otherwise, as already discussed above, the originally filed disclosure fails to provide specific support for the recitation of either of the aforementioned sets of limitations. The only portion of the originally filed disclosure which

Art Unit: 3744

describes the packing member as being attached to only the small diameter shaft portion is written in a generally unclear and idiomatically informal manner which makes it impossible for the examiner to determine what is encompassed thereby. On page 3, in lines 12-18, applicants state "According to a second aspect of the present invention, the door shaft (41) is provided with a large diameter shaft portion (41a) and a small diameter shaft portion (41b), and the *packing member (43, 143, 243) is attached to only the small diameter shaft portion (41b) in the large diameter shaft portion and the small diameter shaft portion.[sic]*". The originally filed disclosure thus fails to specify that the packing member is directly attached to an outer surface of only the small diameter shaft portion, because it fails to clearly set forth what is meant by "to only the small diameter shaft portion (41b) *in the large diameter shaft portion and the small diameter shaft portion*".

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1 through 4, 6, 7, 9, 10, and 12 are rejected under 35 U.S.C. 102(b) as being anticipated by Zexel Corporation (JP 09-58249, made of record via IDS).

Zexel Corporation discloses an air passage opening and closing device 11 essentially as claimed, including, for example: a plate-shaped door body 12 having a door shaft 13 which becomes a center of rotation; a case 3 having a bearing hole 18 for pivotally holding the door shaft 13 as shown in Figures 2 and 3 for example; the case 3 also having an opening portion or passage 8 in which air flows when the plate-shaped door 12 is rotated into an "open" position as well as a heating heat exchanger 5 and a cooling heat exchanger 4 arranged therein as shown in Figure 1; an elastic packing or seal member 14, the elastic packing or seal member 14 being

Art Unit: 3744

attached to at least one of the door shaft 13 and the bearing hole at a position circumferentially spaced from the plate shaped door body 12 and covering at least in part both a portion of the side face of the door 12 and a portion of the door shaft 13 in the circumferential direction thereof.

Figure 3 shows that the door shaft 13 has a small diameter portion 13 whose outer surface is directly covered by the elastic packing or seal member 14 and a large diameter shaft portion or projection part 15 whose outer is not directly covered by the elastic packing or seal member 14.

The reference thus reads on the claims.

***Claim Rejections - 35 USC § 103***

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claims 5 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Zexel Corporation (JP 09-58249, made of record via IDS) in view of Wakamatu et al. (previously of record).

As discussed in greater detail above, Zexel Corporation discloses an air passage opening and closing device essentially as claimed, including a plate shaped door 12 disposed in a vehicular air conditioning case 3 and used in opening 8. While Zexel Corporation fails to disclose that a door having the same configuration as the inventive butterfly-type door 12 would specifically be usable as an air mixing door 6 for adjusting the ratio of the volumes of cooled and heated air, it would have been obvious to one skilled in the art to use the same door configuration for any and all of the air mixing doors in case 3, including as air mixing door 6. It is known in the art and taught by Wakamatu et al., for example, to use a single butterfly-type door configuration for any and all of the air mixing door, the inside/outside switching door, and the

Art Unit: 3744

face/defroster/foot doors in a vehicular air conditioning case. Therefore, it would have been obvious to one skilled in the art at the time of invention to modify the vehicular air conditioner of Zexel Corporation by using the same door configuration for the air mixing door 6 as for the mode doors 11 as taught by Wakamatu et al. in order to, for example, simplify the design and to facilitate the manufacturability of the same.

***Allowable Subject Matter***

10. The non-application of art against claim 8 should not be construed as an indication of allowable subject matter, but rather as an indication that the patentability of the claim could not be established with any certainty due to the problems under 35 U.S.C. 112, first paragraph, as described in greater detail above. However, upon successfully overcoming the abovecited rejection of claim 8 under 35 U.S.C. 112, first paragraph, claim 8 may be rendered allowable.

***Conclusion***

11. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ljiljana (Lil) V. Ciric whose telephone number is 571-272-4909.

Art Unit: 3744

The examiner works a flexible work schedule but can normally be reached on most days during the work week between the hours of 10:30 a.m. and 6:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Cheryl J. Tyler can be reached on 571-272-4834. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Ljiljana (Lil) V. Ciric/

Primary Examiner, Art Unit 3744